

EXHIBIT 4

UNITED STATES of AMERICA
VS
METHODIST LE BONHEUR HEALTHCARE, et al.

BRADLEY SOMER, M.D.

September 19, 2022



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<p style="text-align: right;">Page 101</p> <p>1 Do you recall where you heard those numbers,</p> <p>2 Dr. Somer?</p> <p>3 A. Maybe from Erich. I don't -- I don't recall</p> <p>4 where.</p> <p>5 Q. Okay. Then you state, "That is a 65 million</p> <p>6 swing on a five-year deal so clearly would feel more</p> <p>7 comfortable putting the foot on the gas pedal if</p> <p>8 it's closer to 33 million as that is 165 million net</p> <p>9 upside to them on the drugs alone." And then you</p> <p>10 put three exclamation marks.</p> <p>11 Did I read that correctly?</p> <p>12 A. I think so.</p> <p>13 Q. What did you mean, "putting the foot on the</p> <p>14 gas pedal"?</p> <p>15 A. I don't know what I meant. I don't remember</p> <p>16 writing it, so I don't remember what I meant.</p> <p>17 Q. So the last sentence of this paragraph, you</p> <p>18 wrote, "With radiology, they could exercise a</p> <p>19 significant larger upside for them." The next</p> <p>20 sentence, "If we're only getting 20 to 25 million</p> <p>21 out of that" -- "out of that, would not feel bad at</p> <p>22 all about pressing."</p> <p>23 A. I think --</p> <p>24 Q. Did I read that correctly?</p> <p>25 A. Yeah.</p>	<p style="text-align: right;">Page 103</p> <p>1 MR. ROARK: Object to the form.</p> <p>2 MR. THOMAS: Same objection.</p> <p>3 BY MR. VROON:</p> <p>4 Q. Is that right?</p> <p>5 A. I don't think that there's anything</p> <p>6 guaranteed to get anything. I think that it's</p> <p>7 whatever would be accomplished through a fair market</p> <p>8 value through an MSA agreement and -- that we've</p> <p>9 performed on.</p> <p>10 So I don't think that that's a -- there's</p> <p>11 nothing -- obviously, trying to advocate, but always</p> <p>12 through a fair market value opinion on -- and</p> <p>13 through the management services agreement.</p> <p>14 Q. We're not talking about fair market valuation</p> <p>15 in this email, Dr. Somer. So I'm just asking you</p> <p>16 whether the 20 to 25 million refers to a portion of</p> <p>17 the 340B savings that Methodist would obtain over</p> <p>18 five years.</p> <p>19 A. It's not.</p> <p>20 MR. THOMAS: Object to the form.</p> <p>21 THE WITNESS: It's -- it's -- it's</p> <p>22 referring to whatever would be obtained through a</p> <p>23 management service agreement.</p> <p>24 BY MR. VROON:</p> <p>25 Q. Okay. So the 20 to 25 million refers to the</p>
<p style="text-align: right;">Page 102</p> <p>1 Q. So you're talking about 340B profits to -- or</p> <p>2 savings to Methodist from the arrangement with West,</p> <p>3 correct?</p> <p>4 A. I'm talking about 340B savings.</p> <p>5 Q. To Methodist, right?</p> <p>6 A. Right.</p> <p>7 Q. And that number, there's a -- there's a range</p> <p>8 of what you've heard -- we don't know the source,</p> <p>9 but you've heard a range of 20 to 33 million a year,</p> <p>10 according to this email, right?</p> <p>11 A. That's -- yeah, that's what it says.</p> <p>12 Q. Yeah. And if it's the 33 million to be the</p> <p>13 340B savings to Methodist, then you wrote, "If it's</p> <p>14 closer to 33 million" -- "33 million, that is</p> <p>15 \$165 million net upside to them."</p> <p>16 And you're referring to the 340B savings over</p> <p>17 five years, right?</p> <p>18 A. That looks like what it's referring to,</p> <p>19 right.</p> <p>20 Q. Okay. Yes, sir.</p> <p>21 And then you say, "If we are only getting 20</p> <p>22 to 25 million out of that, would not feel bad at all</p> <p>23 about pressing."</p> <p>24 So the 20 to 25 million out of a 340B savings</p> <p>25 is what West would get?</p>	<p style="text-align: right;">Page 104</p> <p>1 future management services payments?</p> <p>2 A. Conceptually speaking --</p> <p>3 Q. Okay.</p> <p>4 A. -- what could be, but nothing guaranteed.</p> <p>5 Q. And did you think that the management</p> <p>6 services payments would be funded from the 340B</p> <p>7 savings that Methodist would obtain?</p> <p>8 A. 340B went to fund the -- whatever</p> <p>9 Methodist -- it's up to Methodist on where that 340B</p> <p>10 would go, so --</p> <p>11 Q. I saw an email from Gary Shorb to the -- or a</p> <p>12 letter from Gary Shorb to the medical community</p> <p>13 after this deal was finalized, and he said Methodist</p> <p>14 and West donated 5 million to UT.</p> <p>15 Do you recall seeing that?</p> <p>16 MR. ROARK: Object to the form.</p> <p>17 MR. THOMAS: Objection. Lack of</p> <p>18 foundation.</p> <p>19 THE WITNESS: I -- you can show me the</p> <p>20 email. I don't --</p> <p>21 BY MR. VROON:</p> <p>22 Q. Yeah. Do you recall it was an announcement</p> <p>23 around the announcement of the alliance, and there</p> <p>24 was a letter that Mr. Shorb wrote to the community,</p> <p>25 physicians in the community?</p>

1 Q. When you say "we had to evaluate," who do you
2 mean by "we"?

3 **A. Me and Lee looked at different software**
4 **packages. So we ended up getting OncoLens, which is**
5 **a tumor board management system, to make things more**
6 **efficient for everybody and make it easier on the**
7 **coordinators. So that was --**

8 Q. When you say that you had to get buy-in from
9 the specialties, that included the pathology group
10 at Methodist?

11 **A. Yes.**

12 Q. And also the radiology group at Methodist?

13 **A. We -- yeah, because we couldn't -- like, with**
14 **the West radiology, we couldn't staff every tumor**
15 **board. So -- and, you know, we had to pull in --**
16 **obviously, there's different personalities from the**
17 **previous West radiology and the -- the MRPC group,**
18 **and bridging that was an enormous lift to begin**
19 **with, but bringing them to involve them in the tumor**
20 **boards was also an undertaking as well.**

21 Q. When you say enormous lift and a big
22 undertaking, are you talking about the amount of
23 time and effort that you had to spend working on the
24 multidisciplinary conferences?

25 **A. Well, me and others. Again, I'm not -- I'm**

1 **not taking, you know, personal --**

2 Q. I'm just talking about yourself. Is that
3 something that you had to spend a significant amount
4 of time on?

5 **A. I had to spend time, yeah. I -- I mean, it**
6 **took a lot of coordination.**

7 Q. And the time that you spent chairing or
8 working on the tumor boards, is that something that
9 you would be paid RVUs for?

10 **A. No.**

11 Q. Is that part of the work that you viewed
12 yourself as doing relating to management services?

13 **A. I mean, again, I just, like, basically did**
14 **what I had to do in order to make a cancer center.**
15 **I don't think that I, like, necessarily clicked off**
16 **here's what -- I essentially -- remember, we had to**
17 **do this -- tumor board started at 6:30 or 7:00 in**
18 **the morning before any patients even came in.**

19 **We -- you know, a lot of this -- so I**
20 **don't -- like, it was a usual off-hour kind of**
21 **thing, but it was -- it was definitely extra time to**
22 **participate for anybody that participated.**

23 Q. When you say "off-hour," what do you mean?

24 **A. Well, it depends upon what your off-hours**
25 **are. My on-hours are, like, you know -- I don't**

1 **know. I -- I usually am working until really,**
2 **really late and wake up really, really early, so**
3 **you're always on, but it's not on, like, clinic**
4 **time.**

5 Q. As a result of West entering into the
6 management services agreement with Methodist, did
7 that entail you having to perform work that you
8 hadn't been doing prior to that agreement?

9 **A. Definitely, a lot of work.**

10 Q. And is that the work that you would typically
11 do, as you said, off-hours?

12 **A. It would be in the -- when I'm not in clinic.**
13 **Sometimes you have to take off time during clinic to**
14 **do them. But it would then -- sometimes even**
15 **something came up in the middle of clinic. So it**
16 **was not during -- not during -- so it was additional**
17 **time.**

18 Q. Was the work that you did for management
19 services limited to Monday through Friday?

20 **A. No.**

21 Q. Did it include time outside of that?

22 **A. Well, again, like, I don't -- it's hard --**
23 **it's blurred between what's management services and**
24 **what's not, like, you know. But there was plenty of**
25 **time meeting on the weekends and answering emails on**

1 **the weekends and at night. But, again, you can call**
2 **it management services, so -- I would call it cancer**
3 **center development, so --**

4 Q. All right. Cancer center development.
5 Given the size of the clinical practice that
6 you had, how did you find the time to spend on
7 cancer center development?

8 **A. It was early morning. I slept less. I**
9 **missed a lot of things for my family.**

10 **If I had to skip clinic, I'd skip clinic, if**
11 **it was a meeting that I had to get to or whatever.**
12 **So it's a -- you know, some people work 9:00 to**
13 **5:00. It wasn't a 9:00-to-5:00 job for us. It was,**
14 **like, kind of a -- we had a lot to do and get done**
15 **and we just, you know, did it at all hours, so --**

16 Q. Was devoting that time something you did over
17 the term of the arrangement from 2012 through 2018?

18 **A. We did it -- yeah, I mean, the time -- and**
19 **probably even before 2012 even we were, like,**
20 **already kind of gearing up. We needed to get a**
21 **needs evaluation to figure out how to do stuff,**
22 **so --**

23 Q. You were gearing up for the cancer center
24 development even before the contract went into
25 effect?

1 **A. He was a reimbursement director.**
 2 Q. At the West Clinic?
 3 **A. At -- I would assume he worked -- I mean, he**
 4 **was one of the employees.**
 5 Q. Okay.
 6 **A. Again, so whatever we were, West, Methodist,**
 7 **you know.**
 8 Q. And -- yeah. And he's talking about a
 9 particular drug is three times the cost of another
 10 drug, and he's asking you to change the drug that
 11 you were prescribing, right?
 12 **A. Out-of-pocket --**
 13 MR. THOMAS: Try to read to yourself.
 14 **THE WITNESS: I'll go silent. Sorry.**
 15 **Okay. I honestly don't know the**
 16 **difference between Sandostatin LAR and Somatuline**
 17 **Depot, so --**
 18 BY MR. VROON:
 19 Q. There's a difference in the profit margin?
 20 MR. ROARK: Object to the form.
 21 MR. THOMAS: Same objection.
 22 **THE WITNESS: I mean, you see the email,**
 23 **so --**
 24 BY MR. VROON:
 25 Q. Yeah, but I'm trying to understand it.

1 Did -- why was -- I mean, Jamie Chandler has
 2 no medical training, I assume, but he's asking you
 3 to change a drug based on the profit margin or the
 4 cost of the drug?
 5 MR. THOMAS: Objection to form.
 6 MR. ROARK: Object to the form.
 7 **THE WITNESS: I didn't write the email.**
 8 BY MR. VROON:
 9 Q. But is that the message that you received?
 10 **A. I mean, you see the email.**
 11 Q. What was your response?
 12 **A. I don't know. How would I remember that?**
 13 Q. Did -- is it -- Mr. Chandler, part of his
 14 role was to -- even after the alliance started, he
 15 was -- part of his role was to monitor the drug cost
 16 and the margins of drugs being prescribed?
 17 **A. I don't know what -- whether that was his**
 18 **role. His role was to enable access for patients to**
 19 **get the drugs, so --**
 20 Q. But did he communicate with West physicians
 21 about the drug costs and the drug profit margins?
 22 **A. He was on the CPQ committee and --**
 23 Q. Do you know if he was at least employed by
 24 Methodist?
 25 **A. I don't know.**

1 Q. Was he a Methodist -- was he a West employee
 2 before this deal?
 3 **A. I don't remember when he came and left.**
 4 Q. Okay. Dr. Somer, if I wanted to see all the
 5 care plans and the pathways, how would we get them?
 6 **A. You'd have to ask these guys, right?**
 7 Q. But if you wanted to obtain them, how would
 8 you get them?
 9 **A. Like, all the ones in the EMR?**
 10 Q. Yes.
 11 **A. Right now?**
 12 Q. Yes.
 13 **A. I would go to the -- you'd go to the -- our**
 14 **data analytics people and --**
 15 Q. And are there dates on the care plans and
 16 pathways that show their date of origin or their
 17 date of revision?
 18 **A. I don't know.**
 19 MR. VROON: I think my time is about up,
 20 Dr. Somer. Thank you.
 21 MR. THOMAS: Thank you.
 22 MR. ROARK: I've got a few more things.
 23 If we could go off the record and take one more
 24 break.
 25 VIDEO TECHNICIAN: Yeah. We're off at

1 4:47 p.m.
 2 (A recess was taken.)
 3 VIDEO TECHNICIAN: Okay. Back on,
 4 4:59 p.m.
 5
 6 EXAMINATION
 7 QUESTIONS BY MR. ROARK:
 8 Q. Dr. Somer, could you go back to Exhibit 206.
 9 **A. 206.**
 10 THE REPORTER: They're in order.
 11 **THE WITNESS: They're in order. Okay.**
 12 BY MR. ROARK:
 13 Q. This is that email exchange with Jon Peters,
 14 Erich Mounce, Ron Davis that Mr. Vroon asked you
 15 about.
 16 During the term of the various agreements
 17 between Methodist and -- and West, is it correct
 18 that Methodist paid West for clinical services under
 19 the PSA?
 20 **A. Yes.**
 21 Q. And Methodist paid West for management
 22 services under the MSA?
 23 **A. Yes.**
 24 Q. Outside of the payments that Methodist made
 25 to West for clinical services under the PSA or

1 management services under the MSA, did West receive
 2 any separate or additional payments from Methodist?
 3 **A. No.**
 4 Q. Did West receive any kind of cut or part of
 5 drug profits?
 6 **A. No.**
 7 Q. Did -- did your decision-making about whether
 8 to prescribe a particular drug or not, did you
 9 factor in margins on the drug, if you knew them?
 10 **A. Our factor was based on what was best for the**
 11 **patient.**
 12 Q. All right. And I wanted to ask you about one
 13 other document.
 14 You talked -- I was asking you some questions
 15 earlier today about Methodist's quality oversight
 16 of -- of West.
 17 Do you recall that?
 18 **A. Yep.**
 19 Q. And you referenced -- you referenced
 20 receiving a report card. I think you said you
 21 remembered a colorful chart.
 22 **A. Yeah.**
 23 Q. All right. I want to show you a document
 24 that is -- it's Bates-numbered West 0031800. I'll
 25 mark it as the next exhibit.

1 (WHEREUPON, a document was marked as
 2 Exhibit Number 208.)
 3 BY MR. ROARK:
 4 Q. Exhibit 208 is entitled "West Cancer Center
 5 Balanced scorecard, December 2015."
 6 Dr. Somer, I'll give you a minute to read
 7 through it.
 8 **A. Okay.**
 9 Q. Is this an example of the quality review
 10 report cards that you recall West receiving from
 11 Methodist?
 12 **A. I don't remember receiving this one**
 13 **specifically, but there were things like this.**
 14 Q. Is this what you recall the format of the
 15 scorecards being like?
 16 **A. Colorful?**
 17 Q. Colorful and containing this -- this type of
 18 information.
 19 **A. I mean, these were the kind of information.**
 20 Q. Would you see similar report cards as this --
 21 this one is for West Cancer Center. When this
 22 information would come to you, would it include the
 23 scorecards for Methodist University Hospital,
 24 Methodist Germantown Hospital, Methodist North?
 25 **A. Yeah, sometimes.**

1 Q. Were -- the different hospital lines, did
 2 they each have goals that were particular to the --
 3 to the -- that hospital?
 4 **A. I think so.**
 5 Q. And for quality overview purposes, was West
 6 Cancer Center treated like another hospital line of
 7 Methodist?
 8 MR. VROON: Object to form.
 9 **THE WITNESS: We were measured to the**
 10 **quality metrics like others.**
 11 BY MR. ROARK:
 12 Q. Like the other hospitals?
 13 **A. Other hospitals, yeah.**
 14 MR. VROON: Object to form.
 15 BY MR. ROARK:
 16 Q. I want to make sure I heard your answer.
 17 Was that like the other hospitals?
 18 **A. Yes.**
 19 MR. VROON: Same objection.
 20 BY MR. ROARK:
 21 Q. And for -- do you recall who the -- the
 22 quality scorecards were -- would come from?
 23 **A. I don't remember who.**
 24 Q. Okay.
 25 **A. Yeah.**

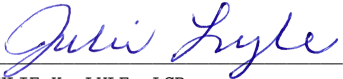
1 Q. Someone at Methodist?
 2 **A. I presume -- probably it was created with**
 3 **someone from Methodist, but I don't know exactly. I**
 4 **would imagine that that was the case.**
 5 Q. All right. The -- and for Exhibit 20 -- 208
 6 for this particular document, the top row refers to
 7 AFS.
 8 Do you know what that stands for or what
 9 that's referring to?
 10 **A. I don't know exactly, but I assume that**
 11 **that's a patient satisfaction.**
 12 Q. What about associate feedback score?
 13 **A. Oh, yes. I do remember that, yeah.**
 14 Q. Is that one of the items that Methodist
 15 measured, was associate feedback for West Cancer
 16 Center?
 17 **A. Yes.**
 18 Q. All right. And then the next group of items
 19 refers to quality. The first one is "3rd and 4th
 20 line breast, lung, colon, and ovarian."
 21 Do you see that?
 22 **A. Yes.**
 23 Q. The reference to "3rd and 4th line," is that
 24 similar to what you were explaining earlier today,
 25 the -- or what does 3rd and 4th line relate to?

REPORTER'S CERTIFICATE

STATE OF TENNESSEE
COUNTY OF DAVIDSON

I, JULIE K. LYLE, Licensed Court
Reporter, with offices in Hermitage, Tennessee,
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